



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 13, 2003

Ms. Julia Vaughan
Executive Director
Board of Law Examiners
P.O. Box 13486
Austin, Texas 78711-3486

OR2003-8161

Dear Ms. Vaughan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 191309.

The Board of Law Examiners (the "BLE") received a request for information relating to the BLE's regrading process, including statistics concerning a named individual's regrading of the business association portion of the bar exam from February 2000 to February 2003. The requestor subsequently clarified the portion of her request in which she seeks statistical data. You indicate that the BLE has provided some of the requested information. However, you claim that the requested statistical data is not subject to the Public Information Act (the Act), and in the alternative, is excepted from public disclosure under the Act pursuant to section 552.101 of the Government Code. We have considered your arguments and reviewed the submitted information.

In Open Records Letter No. 92-267 (1992), this office addressed whether bar exam scores held by the BLE are subject to the Act. In that ruling, we noted that section 82.003 of the Government Code generally provides that the BLE is subject to the Act. However, we also noted that section 82.003(b) provides that "[e]xamination questions that may be used in the future and examinations other than the one taken by the person requesting it are exempt from disclosure." Gov't Code § 82.003(b). In an order issued on July 7, 1987, the Texas Supreme Court clarified section 82.003 by exempting from disclosure under the Act "[g]rades and examination results of any person."¹ *Order of the Supreme Court of Texas* (Tex. July 7, 1987) (on file with the Open Records Division of the Office of the Attorney General). Therefore, in Open Records Letter No. 92-267 (1992), this office held that any information coming under section 82.003(b) or the exemptions listed in the supreme court's July 7, 1987

¹An applicant may request his or her own grades under the supreme court's order, but the grades may be withheld pending the resolution of an investigation into the applicant's moral character and fitness.

order was not subject to the Act and the BLE need not seek a ruling from this office regarding whether it must release such information. Nevertheless, we went on to find that the bar examination results requested in the request at issue were exempt from disclosure under section 82.003(b) of the Government Code and could be withheld from the requestor. We further found that the BLE could withhold bar examination results from future requestors without seeking a ruling from this office.

You indicate, and the documents reflect, that the submitted information consists of the interim and final grades of examinees whose essays on the business association portion of the bar examination were regraded by the named individual during the time period between February 2000 and February 2003. Upon review of your assertions and the submitted information, we agree that the information consists of bar examination grades and results subject to section 82.003(b) of the Government Code and the July 7, 1987 order of the supreme court. Therefore, the submitted information is not subject to the Public Information Act, and need not be released to the requestor. Based on this finding, we need not reach your argument under section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).


If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB/lmt

Ref: ID# 191309

Enc: Submitted documents

c: Ms. Darlene D. Brown
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(w/o enclosures)